

OFFICE OF THE  
ATTORNEY GENERAL

DON SIEGELMAN  
ATTORNEY GENERAL  
MONTGOMERY, ALABAMA 36130  
(205) 261-7400



STATE OF ALABAMA

AUG 11 1988

Honorable Joel W. Barfoot  
Chairman  
State Board of Pardons and Paroles  
750 Washington Avenue  
Suite 312  
Montgomery, Alabama 36130

Pardon & Parole Board - Prisons  
& Prisoners - Violations -  
Sentences

The Parole Board may order a  
parole violator to be  
incarcerated for a specific  
period of time (the balance of  
his sentence or any portion  
thereof) and released without  
further action.

Dear Mr. Barfoot:

We have received your request for an opinion from this  
office. Your question is as follows:

QUESTION

If the Board determines that a parolee has  
committed a technical violation of his  
parole, that is, a violation which does not  
constitute a new criminal offense, such as  
failure to report to his parole officer at  
the appropriate time, or failure to comply  
with instructions to participate in a  
substance abuse treatment program, may the  
Board order such parolee to be incarcerated  
for a specific period of time (e.g., 30  
days), to be released without further action  
of the Board?

FACTS AND ANALYSIS

Code of Alabama, (1975) §15-22-32 provides in pertinent

part that the Parole Board "may, if it sees fit, require such prisoners (parole violators) to serve out in prison the balance of the term for which he was originally sentenced or such part thereof as it may determine." (emphasis added) It is clear from this language that the Parole Board has the authority to require a parole violator to be returned to prison to serve any amount of the balance of his original sentence. This interpretation was implicitly accepted by the Alabama Court of Appeals in Tunstill v. State, 138 So.2d 267 (1962). In this case, the court in regard to a parole violator stated that:

"Moreover we entertain no doubt as to the right of the warden to keep him for whatever part of his original unserved eight-year sentence the (Parole) Board specified in its order as a parole court." (emphasis added).

The parole board may send a parole violator back to prison for a time less than the balance of his term. Once this time period has expired, the parole violator may be released back into society. However, the balance of his sentence must still be completed by parole.


#### CONCLUSION

Therefore, it is the opinion of this office that the parole board may order a parole violator to be incarcerated for a specific period of time (the balance of his sentence or any portion thereof) and released without further action of the Board.

I hope this sufficiently answers your question. If, however, our office can be of further assistance, please do not hesitate to contact me.

Sincerely,

DON SIEGELMAN  
ATTORNEY GENERAL  
BY:

  
ALICE BOSWELL WILHELM  
ASSISTANT ATTORNEY GENERAL

DS/ABW/vj

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